

AMENDED IN ASSEMBLY APRIL 18, 2007

AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1324**

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**Introduced by Assembly Member De La Torre**

February 23, 2007

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An act to amend Section 1371.8 of the Health and Safety Code, and to amend ~~Sections 796.04 and 10380~~ *Section 796.04* of the Insurance Code, relating to health care coverage.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1324, as amended, De La Torre. Health care coverage: rescinded coverage.

Existing law provides for regulation of health care service plans by the Director of the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Insurance Commissioner.

Existing law provides that a health care service plan or a health insurer that authorizes a specific type of treatment by a health care provider shall not rescind or modify this authorization after the provider renders the health care service in good faith and pursuant to the authorization.

This bill would ~~define “authorizes” and “authorization” under these provisions~~ *state that a provider has rendered health care services in good faith under specified circumstances, and that a plan or insurer does not avoid its obligations under these provisions by rescinding or modifying a health care service plan contract or a policyholder’s policy or certificate. The bill would also state that these provisions are declaratory of existing law.*

Existing law provides that the falsity of a statement in a life or disability insurance policy application shall not bar the right to recovery under the policy unless the false statement was made either with actual intent to deceive or it materially affected the acceptance of the risk or hazard assumed by the insurer.

~~This bill would require both of these conditions in order for falsity of a statement in the application to bar the right to recovery under the policy.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1371.8 of the Health and Safety Code is  
2 amended to read:

3 1371.8. A health care service plan that authorizes a specific  
4 type of treatment by a provider shall not rescind or modify this  
5 authorization after the provider renders the health care service in  
6 good faith and pursuant to the authorization. This section shall not  
7 be construed to expand or alter the benefits available to the enrollee  
8 or subscriber under a plan. ~~“Authorizes” and “authorization”~~  
9 ~~include, but are not limited to, verification of eligibility, authorizing~~  
10 ~~a procedure, or other communication by the plan indicating that~~  
11 ~~the health care services are covered under the plan. A provider has~~  
12 ~~rendered health care services in good faith under this section when~~  
13 ~~the health care service plan has authorized the services by verifying~~  
14 ~~eligibility of a member or otherwise communicating that the~~  
15 ~~member is covered under an enrollee’s or subscriber’s plan~~  
16 ~~contract, or, in the case where an enrollee’s or subscriber’s plan~~  
17 ~~contract requires preapproval for a particular service, the provider~~  
18 ~~has obtained that preapproval. A health care service plan does~~  
19 ~~not avoid its obligations under this section by rescinding or~~  
20 ~~modifying the enrollee’s or subscriber’s plan contract. The~~  
21 ~~Legislature finds and declares that the amendments made to this~~  
22 ~~section by the act amending the section in the first year of the~~  
23 ~~2007–08 Regular Session of the Legislature do not constitute a~~  
24 ~~change in, but are declaratory of, existing law.~~

25 SEC. 2. Section 796.04 of the Insurance Code is amended to  
26 read:

1 796.04. A health insurer that provides coverage for hospital,  
2 medical, or surgical expenses that authorizes a specific type of  
3 treatment for services covered under a policyholder's contract or  
4 plan by a provider shall not rescind or modify this authorization  
5 after the provider renders the health care service in good faith and  
6 pursuant to the authorization. This section shall not be construed  
7 to expand or alter the benefits available or the terms and conditions  
8 of the contract as may be agreed upon between a policyholder,  
9 certificate holder, or trust, and the insurer. ~~"Authorizes" and~~  
10 ~~"authorization" include, but are not limited to, verification of~~  
11 ~~eligibility, authorizing a procedure, or other communication by~~  
12 ~~the insurer indicating that the health care services are covered~~  
13 ~~under the contract or plan.~~ *A provider has rendered health care*  
14 *services in good faith under this section when the health insurer*  
15 *has authorized the services by verifying eligibility of an insured*  
16 *or otherwise communicating that the insured is covered under a*  
17 *policyholder's policy or certificate, or, in the case where the*  
18 *policyholder's policy or certificate requires preapproval for a*  
19 *particular service, the provider has obtained that preapproval. A*  
20 *health insurer does not avoid its obligations under this section by*  
21 *rescinding or modifying the policyholder's policy or certificate.*  
22 *The Legislature finds and declares that the amendments made to*  
23 *this section by the act amending the section in the first year of the*  
24 *2007–08 Regular Session of the Legislature do not constitute a*  
25 *change in, but are declaratory of, existing law.*

26 ~~SEC. 3. Section 10380 of the Insurance Code is amended to~~  
27 ~~read:~~

28 ~~10380. The falsity of any statement in the application for any~~  
29 ~~policy covered by this chapter shall not bar the right to recovery~~  
30 ~~under the policy unless the statement was made with actual intent~~  
31 ~~to deceive and it materially affected either the acceptance of the~~  
32 ~~risk or the hazard assumed by the insurer.~~